

Wage and Hour Division, Labor

§519.17

(c) An institution of higher education shall not employ full-time students at subminimum wages under this subpart in unrelated trades or businesses as defined and applied under sections 511 through 515 of the Internal Revenue Code, such as apartment houses, stores, or other businesses not primarily catering to the students of the institution.

(d) An institution of higher education subject to a finding by the Secretary that it is in violation of the requirements of section 14(b)(3) of the Act or of this subpart must be issued a full-time student certificate before it can employ full-time students at wages below those required by section 6 of the Act. The Administrator or his/her authorized representative will not issue a full-time student certificate to such an institution without adequate assurances and safeguards to insure that the violations found by the Secretary will not continue.

(e) Full-time students shall not be permitted to work at subminimum wages for more than 8 hours a day, nor for more than 40 hours a week when school is not in session, nor more than 20 hours a week when school is in session (apart from a full-time student's summer vacation), except that when a full-day school holiday occurs the weekly limitation on the maximum hours which may be worked shall be increased by 8 hours for each such holiday but in no event shall the 40-hour limitation be exceeded. (Note: School is considered to be in session for a student taking one or more courses during a summer or other vacation.) Whenever a full-time student is employed for more than 20 hours in any workweek in conformance with this paragraph, the employer shall note in his/her payroll that school was not in session during all or part of that workweek or the student was in his/her summer vacation.

(f) Neither oppressive child labor as defined in section 3(1) of the Act and regulations issued under the Act nor any other employment in violation of a Federal, State or local child labor law or ordinance shall come within the terms of any certificate issued under this subpart.

(g) Full-time students shall be employed at subminimum wages under

this subpart only outside of their school hours, *i.e.*, only outside of the scheduled hours of instruction of the individual full-time student.

(h) No full-time student shall be hired under a full-time student certificate for work in a unit or units of the campus where abnormal labor conditions, such as a strike or lockout, exist.

(i) No provision of any full-time student certificate shall excuse non-compliance with higher standards applicable to full-time students which may be established under the Walsh-Healey Public Contracts Act or any other Federal law, State law, local ordinance, or union or other agreement. Thus, certificates issued under this subpart have no application to employment under the Service Contract Act.

(j) No full-time student certificate shall apply to any employee to whom a certificate issued under section 14(a) or (c) of the Act has application.

[40 FR 6329, Feb. 11, 1975; 40 FR 22546, May 23, 1975]

§519.17 Records to be kept.

(a) The employer shall designate each worker employed as a full-time student under a full-time student certificate at subminimum wages, as provided under part 516 of this chapter.

(b)(1) In addition to the records required under part 516 of this chapter and this subpart, the employer shall keep the records specified in paragraphs (b)(2) and (3) of this section specifically relating to full-time students employed at subminimum wages.

(2) The institution shall obtain at the time of hiring and keep in its records information that the employee is its full-time student at the physical location of the institution in accordance with its accepted definition of a full-time student. During a period between attendance at different schools not longer than the usual summer vacation, the acceptance by the institution of the full-time student for its next term will satisfy the requirements of (b)(2) of this section.

(3) An institution of higher education shall maintain records showing the total number of all full-time students of the type defined in §519.12(a) employed at the campus of the institution

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at less than the minimum wage otherwise applicable under the Act, and the total number of all employees at the campus to whom the minimum wage provision of the Act applies.

(c) The records required in this section, including a copy of any full-time student certificate issued, shall be kept for a period of 3 years at the place and made available for inspection, both as provided in part 516 of this chapter.

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§519.18 Amendment or replacement of a full-time student certificate.

In the absence of an objection by the employer (which may be resolved in the manner provided in part 528 of this chapter) the authorized officer upon his/her own motion may amend the provisions of a certificate when it is necessary by reason of the amendment of these regulations, or may withdraw a certificate and issue a replacement certificate when necessary to correct omissions or apparent defects in the original certificates.

§519.19 Reconsideration and review.

(a) Within 15 days after being informed of a denial of an application for a full-time student certificate or within 45 days after FEDERAL REGISTER publication of a statement of the terms of the certificate granted, (subsequent to April 30, 1976, within 60 days after a certificate is granted), any person aggrieved by the action of an authorized officer in denying or granting a certificate may:

(1) File a written request for reconsideration thereof by the authorized officer who made the decision in the first instance, or

(2) File with the Administrator a written request for review.

(b) A request for reconsideration shall be accompanied by a statement of the additional evidence which the applicant believes may materially affect the decision and a showing that there were reasonable grounds for failure to present such evidence in the original proceedings.

(c) Any person aggrieved by the reconsideration of an authorized officer may, within 15 days after such deter-

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mination, file with the Administrator a written request for review.

(d) A request for review shall be granted where reasonable grounds for the review are set forth in the request.

(e) If a request for reconsideration or review is granted, the authorized officer or the Administrator may, to the extent he/she deems it appropriate, afford other interested persons an opportunity to present data, views, or argument.

[40 FR 6329, Feb. 11, 1975; 40 FR 22546, May 23, 1975]

PART 520—EMPLOYMENT UNDER SPECIAL CERTIFICATE OF MESSENGERS, LEARNERS (INCLUDING STUDENT-LEARNERS), AND APPRENTICES

Subpart A [Reserved]

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Subpart C—Definitions

520.300 Definitions.

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